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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.
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09/147,094

10/27/98

YAMASHITA

A

P-7355-8002

TM02/0824
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EXAMINER

SAJOUS, W

ART UNIT

PAPER NUMBER

2672

DATE MAILED:

08/24/01

Please find below and/or attached an Office communication concerning this application or proceeding.

Commissioner of Patents and Trademarks

Office Action Summary

Application No.

09/147,094

Applicant(s)

Yamashita et al.

Examiner

Wesner Sajous

Art Unit

2672



-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136 (a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

1) ☒ Responsive to communication(s) filed on May 24, 2001, and July 16, 2001

2a) ☐ This action is FINAL. 2b) ☒ This action is non-final.

3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11; 453 O.G. 213.

Disposition of Claims

4) ☒ Claim(s) 1-9 and 11-13 is/are pending in the application.

4a) Of the above, claim(s) _____ is/are withdrawn from consideration.

5) ☐ Claim(s) _____ is/are allowed.

6) ☒ Claim(s) 1-9 and 11-13 is/are rejected.

7) ☐ Claim(s) _____ is/are objected to.

8) ☐ Claims _____ are subject to restriction and/or election requirement.

Application Papers

9) ☐ The specification is objected to by the Examiner.

10) ☐ The drawing(s) filed on _____ is/are objected to by the Examiner.

11) ☐ The proposed drawing correction filed on _____ is: a) ☐ approved b) ☐ disapproved.

12) ☐ The oath or declaration is objected to by the Examiner.

Priority under 35 U.S.C. § 119

13) ☐ Acknowledgement is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d).

a) ☐ All b) ☐ Some* c) ☐ None of:

1. ☐ Certified copies of the priority documents have been received.

2. ☐ Certified copies of the priority documents have been received in Application No. _____.

3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

*See the attached detailed Office action for a list of the certified copies not received.

14) ☐ Acknowledgement is made of a claim for domestic priority under 35 U.S.C. § 119(e).

Attachment(s)

15) ☐ Notice of References Cited (PTO-892)

18) ☐ Interview Summary (PTO-413) Paper No(s). _____

16) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)

19) ☐ Notice of Informal Patent Application (PTO-152)

17) ☐ Information Disclosure Statement(s) (PTO-1449) Paper No(s). _____

20) ☐ Other:

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DETAILED ACTION

Remarks

This action is responsive to the communication filed on May 24, 2001, and the request for the "Continued Prosecution Application", CPA filed on July 16, 2001. Claims 1-9, 11-13 are pending.

Continued Prosecution Application

1. The request filed on July 16, 2001 for a Continued Prosecution Application (CPA) under 37 CFR 1.53(d) based on parent Application No. 09/147,094 is acceptable and a CPA has been established. Applicant's submission filed on May 24, 2001 has been entered. An action on the CPA follows.

Response to Amendments/Arguments

Applicants amendment to the specification appear to be in compliance with the 35 U.S.C. 132 rule. As a result, the objections to the specification and the 35 U.S.C. 112 first rejections are withdrawn.

Applicant's arguments with respect to claims 1-9, and 11-13 in light of the Rupe reference have been considered but are moot in view of the new ground(s) of rejection.

Claim Rejections - 35 USC § 103

2. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

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(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

3. Claims 1-9, 11-13 are rejected under 35 U.S.C. 103(a) as being unpatentable over Lett, patent number (WO 95/28799).

Considering claims 1-3, Lett, at fig. 4, sets forth and illustrates a method for displaying a plurality of program guides on a display unit in a matrix form by using one the ordinate (62) and the abscissa (60) as a channel number axis and another one as a time axis as claimed by the present invention, but lacks explicit recitation for the claimed means for displaying to discriminate a time period based on designation by a user in which a purchased program is present and a time period in which the purchased program is not present.

Nonetheless, Lett, at page 24, describes that by moving a cursor location, a user can select a program for viewing by highlighting a channel along with a time slots. This technique could be used for pay-per-view (ppv) event selection (page 25). The highlighted portion in the guide corresponds to the channel and time period at which the chosen pay-per-view event will be provided. A pay-per-view program could be purchased for a 1-day period. See, for example, figures 5-6, the "Terminator 2" selection, and figure. 15. The subscriber terminal will automatically tune the purchased event, or send a message alert to the user while watching another program when the ppv event begins (page 26). It is to be understood that the highlighted portion selected by the user could have been used as a means to distinguish between the ppv events and the non-ppv events, and the time period between which the programs are showing.

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Therefore, it would have been obvious to one of ordinary skill in the art at the time the invention was made to modify Lett as such, in order to have a user friendly system.

Considering claims 6-7, Lett sets forth all claimed limitation of the invention:

- a) the claimed "setting means to allow the user to set an arbitrary time period to be set by a user" is equivalent to the actuation of a key in remote control 26 of fig. 1;
- b) the claimed "discriminatingly displaying means for effective a display to discriminate a time period set by the user and other time period to be displayed in different colors..." is equivalently met by fig. 6. Note that the user selection of "Terminator 2" have time periods (8:00-9:30) which discriminate between other time periods of other programming. It could be displayed in other colors in comparison to the non-selected programming.

In claims 8, and 9 the claimed "setting means allows the starting time and end time..." and the claimed "set for each day of the week by the user" would have been obvious over Lett' disclosure, figures 13-14 since Lett provides the display of program guide schedule which is interacted with by a user by means of a remote control. Such guide could have included the start and ending time, and day of the week for a particular program.

Claim 11 is for the apparatus of claim 1 and is similarly rejected.

Claim 12 is for the apparatus of claim 6 and is similarly rejected.

Claim 13 includes the limitations of claims 6-8, and is rejected by the same basis and rationales set forth in above claims 6-8.

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Claim Rejections - 35 USC § 112

4. The following is a quotation of the first paragraph of 35 U.S.C. 112:

The specification shall contain a written description of the invention, and of the manner and process of making and using it, in such full, clear, concise, and exact terms as to enable any person skilled in the art to which it pertains, or with which it is most nearly connected, to make and use the same and shall set forth the best mode contemplated by the inventor of carrying out his invention.

Claims 1-9, 11-13 are rejected under 35 U.S.C. 112 first paragraph, because they consist of single means claims which cover every conceivable structure for achieving the stated result, while the specification discloses at most only those means known to inventor. Precision and definiteness of the claims languages and/or a means-plus-function format are required.

A single means claim, i.e., where a means recitation does not appear in combination with another recited element of means, is subject to an undue breadth rejection under 35

U.S.C. 112, first paragraph. In re Hyatt, 708 F.2d 712, 714-715, 218 USPQ 195, 197

(Fed. Cir. 1983) (A single means claim which covered every conceivable means for achieving the stated purpose was held nonenabling for the scope of the claim because the specification disclosed at most only those means known to the inventor.). When claims depend on a recited property, a fact situation comparable to Hyatt is possible, where the claim covers every conceivable structure (means) for achieving the stated property (result) while the specification discloses at most only those known to the inventor. See MPEP 2164.08(a).

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Conclusion

Any response to this action should be mailed to :

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Hand-held delivered responses should be brought to Crystal Park II, 2121 Crystal Drive,
Arlington, VA , 6th floor (receptionist).

Any inquiry concerning this communication or earlier communications from the examiner should
be directed to Wesner Sajous whose telephone number is (703) 308- 5857. The examiner can
also be reached on alternate Fridays. If attempts to reach the examiner by telephone are
unsuccessful, the examiner's supervisor, supervisor, Michael Razavi, can be reached at (703) 305-
4713. The fax phone number for this group is (703) 308-6606.

Wesner Sajous - WOS
[Signature]
Patent Examiner, art unit 2672

Jeffery A. Brier
JEFFERY BRIER
PRIMARY EXAMINER

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3	REM	6
4	XT/	1

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